

DC-21-03760
Cause No. _____

DERRICK WILCOX,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	14th OF
	§	
WAL-MART STORES TEXAS, LLC,	§	
	§	
Defendant.	§	DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DERRICK WILCOX, Plaintiff, last three digits of social security number 531, by and through his attorney of record, Matthew Q. Soyars, complaining of Defendant WAL-MART STORES TEXAS, LLC, and for his cause of action would respectfully show unto the Court and Jury as follows:

**I.
Discovery Control Plan**

Pursuant to Rule 190 of the Texas Rules of Civil Procedure, Plaintiff intends to contact discovery under Level II of the Discovery control Plan.

**II.
Parties**

Plaintiff DERRICK WILCOX is a resident of Dallas County, Texas and resides at [REDACTED] Mesquite, Texas [REDACTED].

Defendant WAL-MART STORES TEXAS, LLC is a foreign limited liability company authorized to do business in the State of Texas and may be served with process by serving its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

III.
Jurisdiction and Venue

The amount in controversy exceeds the minimum jurisdictional limits of this Court. Venue is proper in Dallas County, Texas pursuant to section 15.002 of the Texas Civil Practices and Remedies Code. Upon proper service of the Defendant, this Court has jurisdiction and venue is proper.

IV.
Relief Sought

Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff DERRICK WILCOX seeks "only monetary relief over \$1,000,000".

V.
Facts

On or about March 17, 2020, Plaintiff DERRICK WILCOX was a truck driver employed by National Freight, Inc. and was hauling a trailer owned and maintained by Defendant, WAL-MART STORES TEXAS, LLC. Plaintiff was making a delivery to Defendant's store #7240 located at 8800 Lakeview Parkway, Rowlett, Dallas County, Texas 75088. Plaintiff arrived at this store location at approximately 6:25 a.m. and backed the trailer up to the dock. An employee of Defendant opened the trailer door and Plaintiff entered the trailer to open the bulkheads and take the stickers off each store's pallet. After the Defendant's employee took a pallet off the trailer, Plaintiff opened the bulkhead and secured it to the trailer's ceiling by tying the end of the rope to the latch. After Plaintiff secured the bulkhead to the ceiling a few seconds passed and the bulkhead suddenly and unexpectedly fell and struck Plaintiff on the top of his head injuring him and causing him to be dazed and confused. Plaintiff noticed that the end of the rope tied to the bulkhead was frayed and worn and had come loose which caused it to fall and strike Plaintiff.

After the defendant's employee finished unloading the trailer, Plaintiff drove back to the Walmart terminal and dropped off the trailer. Plaintiff then went to his dispatch and reported the incident to his employer. The unexpected loss caused by Defendant's negligence resulted in painful injuries and damages to Plaintiff DERRICK WILCOX. Plaintiff's injuries and damages occurred as a direct and proximate cause of Defendant's negligence.

**VI.
Negligence**

At all times mentioned herein, Defendant WAL-MART STORES TEXAS LLC owned and had such control over the trailer in question that Defendant owed certain duties to Plaintiff, the breach of which proximately caused the damage set forth herein. At all times pertinent herein, Defendant was negligent in various acts and omissions including, but not limited to the following, which negligence was the direct and proximate result of the occurrence in question.

- a. Failing to monitor and maintain equipment in a safe and reasonable manner;
- b. Failing to inspect equipment for potentially dangerous/hazardous conditions;
- c. Failing to properly train and/or supervise employees to recognize and correct potentially dangerous/hazardous conditions existing on the equipment; and
- d. Failing to reduce or eliminate the risk of potentially dangerous/hazardous conditions existing with the equipment.

Each of these acts and omissions, taken singularly or in combination with others, constitutes negligence and was the direct and proximate cause of the injuries and damages sustained by Plaintiff.

VII.
Damages

As a result of Defendant's negligence, Plaintiff DERRICK WILCOX suffered serious injuries to his body, primarily to his head. Plaintiff DERRICK WILCOX sought treatment with ER staff at City Hospital Emergency Care Center in Mesquite, Texas. Plaintiff experienced severe pain and swelling to his head, headaches, dizziness and vertigo. At that time Plaintiff was diagnosed with a concussion and acute vertigo. Plaintiff was taken off work and instructed to seek follow up care for his symptoms. Plaintiff had follow up treatment at Concentra and with a neurologist in Mesquite, Texas. Both providers again diagnosed Plaintiff with concussion and persistent vertigo. Plaintiff's symptoms continued to worsen and he sought additional treatment at Lonestar Neurology. Plaintiff underwent a series of diagnostic tests at Lonestar Neurology and was diagnosed with post-concussion, TBI (traumatic brain injury), and cervical radiculopathy. The neurologist recommended cervical injections and cognitive and vestibular therapy. Plaintiff DERRICK WILCOX has suffered physical impairment and mental anguish in the past and in all reasonable probability, will continue to do so well into the future if not for the balance of his life. As a result of the injuries sustained, Plaintiff has incurred reasonable and customary medical expenses for reasonable and necessary medical treatment in a sum that exceeds the minimum jurisdictional limits of this Court.

VIII.
Loss of Earnings

As a result of the injury sustained, Plaintiff has incurred a loss of earnings. At the time of the incident, Plaintiff was a commercial truck driver employed by National Freight, Inc., and has not been able to return to work.

**IX.
Jurisdictional Limits**

By reason of the above and foregoing injuries and damages, Plaintiff has been damaged in a sum in excess of the minimum jurisdictional requirements of this Court.

**X.
Jury Demand**

Plaintiff demands a trial by jury.

**XI.
Prayer**

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Defendant be cited to appear and answer herein; that he be awarded past and future medical expenses and lost wages; that he be compensated for his pain, suffering and mental anguish; that he be awarded judgment against the Defendant in a sum in excess of the minimum jurisdictional limits of this Court; that he be awarded pre-judgment and post-judgment interest at the maximum legal rate provided by law; and he recover from Defendant his costs herein expended, such costs to include a reasonable attorney's fee; and that he receive any and all other relief to which he may be justly entitled.

Respectfully submitted,

BAILEY & GALYEN
4526 Summerhill Road
Texarkana, Texas 75503
Telephone: 903-306-2944
Facsimile: 903-306-2649

/s/ Matthew Q. Soyars /s/
Texas Bar No. 24037534
Attorney for Plaintiff

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Stephanie McKnight on behalf of Matthew Soyars
Bar No. 24037534
smcknight@galyen.com
Envelope ID: 51772556
Status as of 3/26/2021 9:04 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Stephanie McKnight		smcknight@galyen.com	3/24/2021 10:34:37 AM	SENT



CT Corporation

**Service of Process
Transmittal**

04/09/2021

CT Log Number 539356577

TO: Kim Lundy Service Of Process
Walmart Inc.
702 SW 8TH ST
BENTONVILLE, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Stores Texas, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Wilcox Derrick, Pltf. vs. Wal-Mart Stores Texas, LLC, Dft.

DOCUMENT(S) SERVED: Citation(s), Return, Certificate(s), Petition and Demand

COURT/AGENCY: 14th Judicial District Court Dallas County, TX
Case # DC2103760

NATURE OF ACTION: Personal Injury - 03/17/2020, Store #7240 Located at 8800 Lakeview Parkway, Rowlett, Dallas County, Texas, 75088

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 04/09/2021 at 12:06

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. of the Monday next following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): Matthew Q. Soyars
Bailey & Galyen
4526 Summerhill Road
Texarkana, TX 75503
903-306-2944

ACTION ITEMS: CT has retained the current log, Retain Date: 04/09/2021, Expected Purge Date: 04/14/2021

Image SOP

Email Notification, Kim Lundy Service Of Process ctlawsuits@walmartlegal.com

REGISTERED AGENT ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
877-564-7529
MajorAccountTeam2@wolterskluwer.com

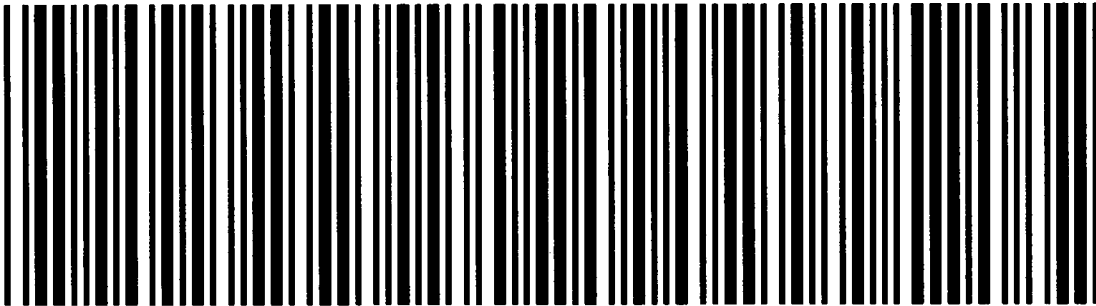
The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

PROCESS SERVER DELIVERY DETAILS

Date: Fri, Apr 9, 2021

Server Name: ernesto Herrera

Entity Served	WAL-MART STORES TEXAS, LLC
Agent Name	C T CORPORATION SYSTEM
Case Number	DC2103760
Jurisdiction	TX



**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: WAL-MART STORES TEXAS, LLC
SERVING REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TEXAS 75201**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **14th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **DERRICK WILCOX**

Filed in said Court **24th day of March, 2021** against

WAL-MART STORES TEXAS, LLC

For Suit, said suit being numbered **DC-21-03760**, the nature of which demand is as follows:
Suit on **OTHER PERSONAL INJURY** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 1st day of April, 2021.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By T. Daniel Macias, Deputy
DANIEL MACIAS



EMHPSC 4418

ESERVE

CITATION

DC-21-03760

DERRICK WILCOX

vs.

WAL-MART STORES TEXAS LLC

**ISSUED THIS
1st day of April, 2021**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: DANIEL MACIAS, Deputy

**Attorney for Plaintiff
MATTHEW Q. SOYARS
BAILEY & GALYEN
4526 SUMMERHILL ROAD
TEXARKANA TX 75503
903-306-2944**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-21-03760

Court No. 14th District Court

Style: DERRICK WILCOX

vs.

WAL-MART STORES TEXAS LLC

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ M. Executed at _____,
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____,
20_____, by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 52070716

Status as of 4/1/2021 3:43 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Stephanie McKnight		smcknight@galyen.com	4/1/2021 3:42:50 PM	SENT

CAUSE NO. DC-21-03760

DERRICK WILCOX

IN THE DISTRICT COURT

Plaintiff(s),

VS.

14TH JUDICIAL DISTRICT

WAL-MART STORES TEXAS, LLC

Defendant(s).

DALLAS COUNTY, TEXAS

RETURN OF SERVICE

Came to my hand on **Thursday, April 8, 2021 at 12:20 PM**,
 Executed at: **1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201**
 within the county of **DALLAS** at **10:10 AM**, on **Friday, April 9, 2021**,
 by delivering to the within named:

WAL-MART STORES TEXAS, LLC

By delivering to its **Registered Agent, CT CORPORATION SYSTEM**
 By delivering to its **Authorized Agent, LINDSEY BARRIENTEZ**
 a true copy of this

CITATION and PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

having first endorsed thereon the date of the delivery.

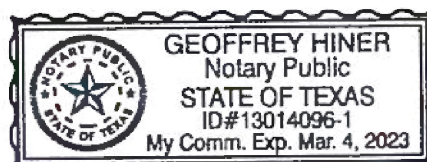
BEFORE ME, the undersigned authority, on this day personally appeared **Ernesto Martin Herrera** who after being duly sworn on oath states: "My name is **Ernesto Martin Herrera**. I am a person not less than eighteen (18) years of age and I am competent to make this oath. I am a resident of the State of Texas. I have personal knowledge of the facts and statements contained herein and aver that each is true and correct. I am not a party to nor related or affiliated with any party to this suit. I have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I am familiar with the Texas Rules of Civil Procedure, and the Texas Civil Practice and Remedies Codes as they apply to service of process. I am certified by the Judicial Branch Certification Commission to deliver citations and other notices from any District, County and Justice Courts in and for the State of Texas in compliance with rule 103 and 501.2 of the TRCP."

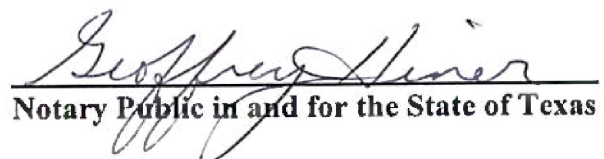
By:



Ernesto Martin Herrera - PSC 4418 - Exp 11/30/21
served@specialdelivery.com

Subscribed and Sworn to by **Ernesto Martin Herrera**, Before Me, the undersigned authority, on this 12th day of April, 2021.




 Notary Public in and for the State of Texas

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: WAL-MART STORES TEXAS, LLC
SERVING REGISTERED AGENT CT CORPORATION SYSTEM
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DALLAS TEXAS 75201**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the 14th District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **DERRICK WILCOX**


Filed in said Court **24th day of March, 2021** against

WAL-MART STORES TEXAS, LLC

For Suit, said suit being numbered **DC-21-03760**, the nature of which demand is as follows:
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WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 1st day of April, 2021.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By , Deputy
DANIEL MACIAS



ESERVE

CITATION

DC-21-03760

DERRICK WILCOX

vs.

WAL-MART STORES TEXAS LLC

**ISSUED THIS
1st day of April, 2021**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: **DANIEL MACIAS**, Deputy

**Attorney for Plaintiff
MATTHEW Q. SOYARS
BAILEY & GALYEN
4526 SUMMERHILL ROAD
TEXARKANA TX 75503
903-306-2944**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-21-03760

Court No. 14th District Court

Style: DERRICK WILCOX

vs.

WAL-MART STORES TEXAS LLC

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ M. Executed at _____,
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____,
20_____, by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

**RETURN / AFFIDAVIT
PROOF / ATTACHED**

CAUSE NO. DC-21-03760

DERRICK WILCOX	§	IN THE DISTRICT COURT
	§	
VS.	§	DALLAS COUNTY, TEXAS
	§	
WAL-MART STORES TEXAS, LLC	§	14TH JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Wal-Mart Stores Texas, LLC, Defendant in the above-entitled and numbered cause, and files its Original Answer to Plaintiff's Original Petition, and would respectfully show the Court as follows:

I. GENERAL DENIAL

Defendant generally denies the allegations contained in Plaintiff's Original Petition, demands strict proof thereof, and says this is a matter for jury decision.

II. RULE 193.7 NOTICE

Pursuant to TEXAS RULES OF CIVIL PROCEDURE 193.7, Defendant provides notice that it intends to use Plaintiff's production of all documents, tangible things and discovery items produced in response to discovery in any pre-trial proceeding or at trial.

III. JURY DEMAND

Defendant further demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing hereof, Plaintiff take nothing by this suit, that Defendant recover its costs, and that Defendant have such other and further relief, both at law and in equity, to which it may be justly entitled.

Respectfully submitted,

COBB MARTINEZ WOODWARD PLLC

1700 Pacific Avenue, Suite 3100

Dallas, TX 75201

(214) 220-5208 (direct phone)

(214) 220-5258 (direct fax)

By: /s/ Bevan Rhine

BEVAN RHINE

Texas Bar No. 24036265

brhine@cobbmartinez.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify a true and correct copy of this document has been forwarded to the following counsel for Plaintiff either by e-service, telefax, electronic mail, and/or regular U.S. mail on this 29th day of April, 2021:

Matthew Q. Soyars
Bailey & Galyen
4526 Summerhill Road
Texarkana, TX 75503
903.306.2944 / fax 903.306.2649
msoyars@galyen.com
smcknight@galyen.com

/s/ Bevan Rhine

BEVAN RHINE

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Sandi Mallon on behalf of Bevan Rhine
Bar No. 24036265
smallon@cobbmartinez.com
Envelope ID: 52937687
Status as of 4/29/2021 11:27 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Stephanie McKnight		smcknight@galyen.com	4/29/2021 9:10:28 AM	SENT
Bevan Rhine		brhine@cobbmartinez.com	4/29/2021 9:10:28 AM	SENT
Sandi Mallon		smallon@cobbmartinez.com	4/29/2021 9:10:28 AM	SENT
Matthew Quinn Soyars	24037534	msoyars@galyen.com	4/29/2021 9:10:28 AM	SENT